

CHAPTER 11 POLICIES AND PROCEDURES IN SUBCHAPTER V CASES



[Date]

UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF OKLAHOMA
215 Dean A. McGee Ave., Ste 147, Oklahoma City, OK 73102

Chapter 11 Policies and Procedures in Subchapter V Cases

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FILING REQUIREMENTS: Documents required for a subchapter V filing, which are the same as the requirements for a small business chapter 11 filing, can be found at 11 USC §1116(1). See also 11 USC §1187(a).

SUB V TRUSTEE: The United States Trustee appoints a sub V trustee. The role of the sub V trustee is to oversee and monitor the case, to appear and be heard on specified matters, to facilitate a consensual plan, and to make distributions under a nonconsensual plan confirmed under the cramdown provisions.

SBRA RULES: Most of the Small Business Reorganization Act Rules are in the Federal Rules of Bankruptcy Procedure. General Order [22-03](#) entered by the U.S. Bankruptcy Court for the Western District of Oklahoma adopts Interim Bankruptcy Rule 1020.

ESCROW PAYMENTS TO SUBCHAPTER V TRUSTEE: The debtor shall submit to the subchapter V trustee installment payments of \$1,500 (or other amount as agreed between the debtor, the subchapter V trustee, and the office of the United States Trustee) to serve as a retainer and ensure payment of the trustee's fees incurred during the case. The first installment shall be due within 30 days of the filing of the petition. Subsequent installments shall be made on or before the last day of each successive month. For example, if a subchapter V case is filed on July 12, (i) the first payment would be due on or before August 11, (ii) the second payment would be due September 30, and (iii) payments would continue in this manner until the Court has ruled upon the trustee's final motion for compensation.

The subchapter V trustee shall return any excess funds to the debtor within 30 days following entry of an order regarding the trustee's final motion for compensation, unless otherwise ordered by the Court.

PLAN DEADLINE: The deadline for filing the subchapter V plan is set upon the filing of the case at 90 days from the filing date. That deadline appears in the notice of electronic filing and the docket text for the petition.

341 NOTICE: The 341 date is set forth in the 341 notice.

STATUS CONFERENCE AND PRE-STATUS CONFERENCE REPORT: The date of the Status Conference, and the deadline to file the Pre-Status Conference Report, will be set and noticed by the respective Judge assigned to the case. The debtor's pre-status conference report should only be filed using the "Pre-Status Conference Report" event in the "Other" category of Bankruptcy Events in CM/ECF. Please do NOT use the more generic Status Report event.

The Bankruptcy Court for the Western District of Oklahoma developed a form for the Subchapter V Pre-Status Conference Report. See, Attachment 1 of these guidelines.

SCHEDULING ORDER: Debtor's counsel should submit to the Court a Stipulation and Consent Scheduling Order (using Attachment 2 of these guidelines) as soon as possible after the filing of the case upon consultation with the U.S. Trustee's office. The Stipulation and Consent Scheduling Order will set the following dates and deadlines:

- Date by which the debtor must file applications to employ general bankruptcy counsel.
- Date by which the debtor must file applications to employ all other professionals.
- Date by which the debtor must file a motion for authority to use cash collateral.
- Date by which the debtor must file an application and submit a proposed order establishing a bar date for the filing of creditors' claims.
- Date by which the debtor must file objections to disputed claims.
- Date by which the debtor must file a proposed disclosure statement (if necessary) and a plan of reorganization.
- Date by which creditors must make an election under 1111(b).

- Date on which an equity security holder or creditor whose claim is based on a security must be the holder of record.

The Bankruptcy Court for the Western District of Oklahoma developed a form for the Stipulation and Consent Scheduling Order. See, Attachment 2 of these guidelines.

SUBCHAPTER V PLAN: The subchapter V plan should be filed using the “Plan” event under the “Plan” Bankruptcy Event category in CM/ECF.

The following Official Forms were developed for small business chapter 11 cases, and are NOT specific to subchapter V cases, but may be helpful to debtors’ attorneys:

- [Official Form 425A: Plan of reorganization for small business under chapter 11](#) (See, Attachment 3 for Suggestions for Completion of Bankruptcy Form 425)
- [Official Form 425B: Disclosure statement for small business under chapter 11](#)
- [Official Form 425C: Monthly operating report for small business under chapter 11](#)

CONFIRMATION HEARING AND BALLOTING PROCEDURES: Contemporaneous with filing the subchapter V plan, the debtor’s counsel should submit to the Court an Order setting deadlines related to plan confirmation, including:

- Date by which ballots accepting or rejecting the plan must be served (or received).
- Identification of the person to whom Ballots should be sent.
- Date by which written objections to confirmation must be filed.
- Statement that copies of any objections must be served on (i) counsel for Debtor, (ii) the Subchapter V Trustee, and (iii) the U.S. Trustee.
- Date and location set for the confirmation hearing (to be obtained from the Judge’s chambers).
- Directing debtor to serve a copy of the plan and the Order to all required parties within three days of filing the plan.

The Official Form for Chapter 11 Ballots can be found [here](#).

BALLOT SUMMARY: Pursuant to Local Rule 3018-1, chapter 11 plan proponents must prepare and file a summary of ballots received no later than three business days before the hearing on confirmation of the plan. The ballot summary should be filed using the “Ballot Summary/Tabulation” event under the “Chapter 11 Events” Bankruptcy Event category in CM/ECF.

POST-CONFIRMATION ACTIONS: After the plan is confirmed, the debtor must file and serve a Notice of Substantial Consummation not later than 14 days after the confirmed plan is substantially consummated. See 11 U.S.C. §§ 1101(2) and 1183(c)(2).

The Notice of Substantial Consummation should be filed under the generic “Notice” event found under the Bankruptcy Event “Notices”.

Pursuant to Local Rule 3022-1, debtor’s counsel must file and serve a Chapter 11 Final Report and Motion for Entry of Final Decree (using Local Form 3022-1) as soon as practicable after entry of an order confirming a plan of reorganization. The final report should be filed using the “Chapter 11 Final Report and Account and Motion for Final Decree” event under the “Chapter 11 Events” Bankruptcy Event category in CM/ECF.

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ATTACHMENT 1

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF OKLAHOMA**

In re:

Debtor(s).

Case No.
Chapter 11
Subchapter V

SUBCHAPTER V PRE-STATUS CONFERENCE REPORT

Note: must be filed 14 days prior to initial status conference
(Include separate information regarding joint debtors, if any)

Subchapter V Trustee: _____

Date of Order for Relief: _____

Claim Bar Date: _____

Plan Deadline: _____

1. Nature of the Business(es) and/or Employment(s) as appropriate:

2. Primary Cause(s) of the Necessity to File Bankruptcy:

3. Intake Meeting:

The intake meeting was held and concluded on _____, 202___. (If not concluded, explain why and state any continued dates.)

4. First Meeting of Creditors:

The First Meeting of Creditors was held and concluded on _____, 202___. (If not concluded, explain why and state any continued dates.)

5. Proof of Claim Deadline:

The Court entered an Order setting a bar date for non-governmental claims of _____, 202____, which has not passed/not yet passed [Doc. #__]. (If a Bar Date Order has not yet been entered, explain why.)

6. General Information About the Nature of the Secured, Priority, and Unsecured Debts:

Secured Claims: \$ _____

Priority Unsecured Claims: \$ _____

Nonpriority Unsecured Claims: \$ _____

Total Claims: \$ _____

7. Status of Employment of Professionals:

Employment of Debtor's bankruptcy counsel was approved on _____, 202____, [Doc. # __]. Debtor will / will not seek the employment of other professionals in the case. (If additional professionals will be employed, please provide an explanation.)

8. Status of Discussions with Subchapter V Trustee:

Debtor's attorney has been in communication with _____, the appointed Subchapter V Trustee as follows:

9. Status of any Cash Collateral, Adequate Protection, or Stay Relief Issues:

(INSERT)

10. Goals for Reorganization of the Business:

(INSERT)

11. Efforts Taken and Status of Achieving a Consensual Plan:

(DESCRIBE THE WHO, WHAT, AND WHEN OF DISCUSSIONS WITH CREDITORS AND ANY AGREEMENTS REACHED)

12. Whether there is Need to File a Separate Disclosure Statement:

Debtor does / does not anticipate needing to file a separate disclosure statement. (If there is a need for a separate disclosure statement, please explain why.)

13. Current Status of Plan:

The deadline to file a plan is _____, 20____. At this time Debtor does / does not anticipate the need to seek an extension of that deadline. (If there is an expectation of the need to seek an extension, please explain why.)

Note: Debtor must file a plan not later than 90 days after the entry of the order for relief. Extensions of this deadline will only be granted by the court upon a finding that the extension is “attributable to circumstances for which the debtor should not justly be held accountable.” See, 11 U.S.C. § 1189(b).

Respectfully submitted,

ATTACHMENT 2

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF OKLAHOMA**

In re:

CORPORATE DEBTOR, LLC,

Debtor.

Case No. 23-99999-JDL

Chapter 11

Subchapter V

STIPULATION AND CONSENT SCHEDULING ORDER

Corporate Debtor, LLC (“**Debtor**”) and the United States Trustee (“**UST**”), having conferred regarding an appropriate scheduling order for this case pursuant to 28 U.S.C. § 586(a)(5), hereby stipulate to the entry of this order:

1. Debtor shall file and serve an application to employ general bankruptcy counsel no later than _____.
2. Debtor shall file and serve applications to employ all other professionals no later than _____. Provided, however, Debtor may seek employment of professionals after that date for cause.

3. Debtor shall file and serve a motion for authority to use cash collateral from all necessary or appropriate sources no later than _____. Provided, however, Debtor may seek such authority after that date for cause.

4. Debtor shall file an application, and contemporaneously submit a proposed order, establishing bar dates for the filing of claims (other than governmental claims) no later than _____.

5. Unless Debtor designates a specific date after confirmation for claim objections to be filed (i) in the Status Conference Report, and (ii) in Debtor's plan, Debtor shall file objections to disputed claims no later than _____.

6. Creditors shall make an election under 11 U.S.C. § 1111(b) no later than _____.

7. Equity security holders and creditors whose claims are based on a security must be the holder of record as of _____.

8. Debtor shall file a proposed disclosure statement (if necessary) and plan of reorganization by _____.

9. To the extent Debtor files a disclosure statement, contemporaneous with the filing of the debtor's proposed disclosure statement and plan of reorganization, the debtor shall obtain a hearing date to determine the adequacy of the disclosure statement; or seek conditional approval of the disclosure statement, pursuant to Rules 3017 and 3017.1 of the FED. R. BANKR.

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Therefore, in consideration of the foregoing, the parties stipulate and agree, and the Court orders, the deadlines set forth above shall apply in this case subject to further order of this Court.

All findings of fact are based upon representation of counsel pursuant to Local Rule 9013-1(L)(1)(a)

#

Stipulated and approved for entry:

/s/ Debtor's Attorney
Debtor's Attorney, OBA#99999
ADDRESS.
ADDRESS
PHONE NUMBER
EMAIL
Attorney for Debtor

UNITED STATES TRUSTEE

/s/ Trial Attorney
Trial Attorney, OBA#99999
Department of Justice, US Trustee
215 Dean A. McGee, Fourth Floor
Oklahoma City, OK 73102
PHONE NUMBER
EMAIL

ATTACHMENT 3

SUGGESTIONS FOR COMPLETION OF BANKRUPTCY FORM 425A (PLAN OF REORGANIZATION FOR SMALL BUSINESS UNDER CHAPTER 11)

Page 1, par. C:

The projections must run for the life of the plan, i.e., if it is a 5-year plan the projections must run for 5 years. all projections should be consistent with the plan's treatment and payment of claims. projections should include a separate line item for payment of each bankruptcy administrative claim and highlight any assumptions that are not in accord with past experience. See Plan Projections template, next page.

Page 2, Article 2:

Each class should state the approximate amount of the claims contained in that class. unless there is a reason to do otherwise, each secured creditor should be placed in its own separate class.

Page 2, Article 3.02:

The plan should contain an estimate of the administrative fees through confirmation and provide for how and when those fees will be paid.

Page 3, Article 4 "TREATMENT":

Claim treatment should contain, at a minimum, the following information: when payments commence, the frequency of payment, the amount of each payment, and when it is projected that payments will terminate.

PLAN PROJECTIONS

PLAN MONTH ¹	0	1	2	3
<u>STARTING CASH²</u>				
<u>Cash Receipts</u>				
Collections				
Additional borrowings				
Total Cash Receipts	_____	_____	_____	_____
<u>Cash Disbursements</u>				
<u>Total Payroll</u>				
Payroll - Gross				
Payroll - Employer Taxes				
Benefits				
Health Insurance				
Worker's Comp Insurance				
Insurance Property				
Insurance GL and Other				
Taxes				
<u>Expenses</u>				
Cost of goods				
<u>IT & Telecom</u>				
<u>General Administrative</u>				
Rent				
Professional Fees				
Contract Labor				
Office Expense				
Other G&A				
<u>Bankruptcy Administrative</u>				
Total Operating Disbursements	_____	_____	_____	_____
Projected Disposable Income	_____	_____	_____	_____

¹ Must run for the life of the plan.

² Starting estimated cash at confirmation in Month 0; every month cash balance carried forward to start the next month.

Required debt service³
CLASS 1-Administrative claims
CLASS 2-Secured
CLASS 3-Unsecured

Total Debt Service _____

Cash +/-

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³ Revise to reflect actual number of Classes and Plan Payments.